

In general, the downloading of digital media represents the transfer of an intangible and is thus not subject to Retailers' Occupation and Use Tax. See 86 Ill. Adm. Code 130.2105. (This is a GIL.)

April 19, 2006

Dear Xxxxx:

This letter is in response to your letter dated March 7, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

**Statement of Facts:**

ABC provides various services over the Internet. ABC has recently begun selling videos over the Internet. The purchaser logs on to ABC's Internet website. The purchaser pays a fee on-line. The purchaser subsequently downloads the video from the Internet to a computer. No tangible personal property is transferred.

**Issue:**

The Illinois sales and use tax applies to the sale of tangible personal property. Is the purchase and electronic download of a video from the Internet subject to Illinois sales or use tax?

**Conclusion:**

Because there is no transfer of tangible personal property in the transaction where a video is purchased and electronically downloaded from the Internet the Illinois sales or use tax does not apply.

**Discussion:**

Illinois General Information Letter No. ST 03-0157-GIL, October 8, 2003, states that the sales tax is not incurred when the downloading of digital media does not involve the transfer of tangible personal property. In ABC's transaction a video is downloaded from the Internet with no transfer of tangible personal property. ABC's sales of videos with delivery via the Internet where no tangible personal property is transferred is not subject to Illinois sales or use tax.

### **Ruling Requested**

The sale of a video that is delivered to the purchaser by the purchaser downloading the video from the Internet to a computer in a transaction which does not involve the transfer of any tangible personal property is not subject to the Illinois sales or use tax.

ABC is not currently under audit by the Illinois Department of Revenue. ABC is not aware of any Private Letter Ruling ('PLR') having been issued on this issue or any similar issue nor has a request for a PLR on this issue previously been requested by ABC. ABC is not aware of nor has ABC been able to locate any contrary authorities on this issue.

If the Department is unable to grant the requested favorable rulings, we respectfully request that you contact the undersigned or our representative prior to taking further action.

If you have any questions or need any additional information you can contact me.

### **DEPARTMENT'S RESPONSE:**

The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. See 35 ILCS 120/2. The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. See 35 ILCS 105/3.

The general information letter referred to in your request ("ST 03-0157-GIL") represents the Department's policy regarding this area. In general, the downloading of digital media represents the transfer of an intangible and is thus not subject to Retailers' Occupation and Use Tax. See 86 Ill. Adm. Code 130.2105.

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess  
Associate Counsel

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